IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&
THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 1453 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 27/02/2004 in WP NO : 11701 OF 1991 on the file of the High Court.)

Between:

C. Suryanarayana, S/o C. Ramulu,
132 KV Receiving Station, APSEB, Erragadda, Hyderabad.

..... APPELLANT

AND

1 The A.P. S.E.B. rep. by its Member Secretary,
Vidyut Soudha, Khairatabad, Hyderabad.
2 The Chief Engineer, Research & Development, APSEB, Mint Compound, Hyderabad.
3 The Chief Engineer, Transmission, APSEB, Vidyut Soudha, Khairatabad, Hyderabad.

.....RESPONDENTS

Counsel for the Appellant: MR.A.SURYANARAYANA MURTHY

Counsel for the Respondents.: MR.S.RAVINDRANATH

The Court made the following :

JUDGMENT:(per the Hon'ble Smt. Justice T. Meena Kumari)

This writ appeal is filed by the appellant aggrieved by the order, dated 27.2.2004 in W.P.No.11701 of 1991, under which the learned Single Judge dismissed the writ petition.

The appellant herein is the writ petitioner and he filed the writ petition questioning the memo issued by the 1st respondent bearing No.DP/DMV/4-P1/90-23 dated 2.8.1991, under which the 1st respondent ordered stoppage of his two increments without cumulative effect. The learned Single Judge having observed that in view of the fact that the petitioner had already retired from service and the punishment was worked out by 1993, nothing remains to be considered and apart from that, no case is made out to interfere with the order impugned, dismissed the writ petition. Hence, the present appeal.

The learned Counsel for the appellant contends that as the interim suspension was granted by the learned Single Judge, no punishment was worked out, but the learned Single Judge dismissed the writ petition, without going into the merits of the case, on the ground that as the writ petitioner had retired from service and the punishment was worked out by 1993 nothing remains to be considered, and apart from that, no case is made out to interfere with the order impugned. He further contends that observation made by the learned Single Judge that no case is made out to interfere with the order impugned would constitute that the order has been

passed on merits and therefore, the order under appeal is liable to be set aside.

The order under appeal clearly goes to show that the learned Single Judge, without going into the merits of the case dismissed the writ petition on the ground that the petitioner retired from service. But the learned Single Judge while dismissing the appeal added “no case is made out to interfere with the order impugned” to his observations. This observation would constitute that the order has been passed on merits as contended by the learned Counsel for the appellant. In this regard, we are in complete agreement with the submission made by the learned Counsel for the appellant. Therefore, we are of the view that the order under appeal is liable to be set aside.

In the result, the writ appeal is allowed and the order dated 27.2.2004 in W.P.No.11701 of 1991 is set aside and the matter is remitted to the learned Single Judge to dispose of the writ petition on merits. No order as to costs.

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T. MEENA KUMARI, J

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P. LAKSHMANA REDDY, J

Dated:07.07.2005

Nn.

Copy to:

1 The Member Secretary, A.P. S.E.B.
Vidyut Soudha, Khairatabad, Hyderabad.
2 The Chief Engineer, Research & Development, APSEB, Mint Compound, Hyderabad.
3 The Chief Engineer, Transmission, APSEB, Vidyut Soudha, Khairatabad, Hyderabad.

4. Two C.D. copies.